

COMMISSIONERS PROCEEDINGS
MAY 25, 2004
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Stanton, Pridemore, and Morris, Chair, present.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the flag salute.

BID AWARD 2367

Reconvened a public hearing for Bid Award 2367 – Annual Hot Applied Seal Coats. Mike Westerman, General Services, stated that the Department of Public Works and Purchasing Department were requesting a two-week delay for award in order to do more product testing and review. There being no public comment, **MOVED** by Stanton to delay award of Bid 2367 to June 8, 2004, at 10:00 a.m. in the Commissioners' Hearing Room in the Public Service Center, 6th Floor. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 99)

BID AWARD CRP 393722

Reconvened a public hearing for Bid CRP 393722 – NE 162nd Avenue (NE 39th Street to Ward Road). Mike Westerman, General Services, read a memo from General Services recommending award to the lowest bidder.

Commissioner Stanton asked if it included two parts.

Westerman replied that all sections were included.

Pridemore commented that bids usually come in lower than the Engineer's estimate.

Westerman explained that a 40% fuel cost increase has been factored in. He said they only have a 37% increase on the low bid.

Stanton asked if Parts II & III were to take in the intersection as well. She asked for further clarification.

Kevin Gray, Department of Public Works, explained that the different parts included the utility work they were doing for the City of Vancouver, the work they were doing on the SR-500 portion, and the WSDOT work at the intersection of Fourth Plain and 162nd Avenue.

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There being no public comment, **MOVED** by Pridemore to award Bid CRP 393722 to Nutter Corporation of Vancouver, Washington in the total bid amount of \$8,540,857.94, including Washington State sales tax, and grant authority to the County Administrator to sign all bid-related contracts. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 99)

PUBLIC COMMENT

There was no public comment.

CONSENT AGENDA

There being no public comment, **MOVED** by Pridemore to approve items 1 through 8. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 99)

PUBLIC HEARING: ROAD VACATION, PORTION OF HIGHWAY 99, SOUTH OF 134 ST

Held a public hearing to consider the County Engineer's Report on the advisability of vacating two portions of right-of-way along NE Highway 99. One parcel request is for right-of-way along the east side of Highway 99 running approximately 680 feet southerly, the second request is on the east side of Highway 99 running approximately 380 feet north of NE 129th Street at varying widths.

Barbara Kildun, Department of Public Works, presented. She explained that the first request had been filed by The Holland, Inc., who had filed an application of vacation for portions of Highway 99 along their west property line, as well as two parcels that they will be taking ownership of from the county. She further explained. She stated that staff recommended approval of the request if the following conditions are met: no final order shall be recorded until the county's road project is complete; an easement is to be maintained for all existing utilities; payment of both administrative and land values are to be paid to the county; and a restrictive deed will be issued prohibiting access to Highway 99 and NE 20th Avenue within the North 115 feet thereof.

John White, 1111 Main Street, Suite 300, Vancouver, spoke on behalf of Holland-Burgerville, Inc. Mr. White introduced Diane Randecker, Holland-Burgerville. White indicated that they have been working on the road vacation for about 1 ½ years, and Ms. Kildun has been a tremendous help throughout the process. He thanked the board for their consideration.

There being no further comment, **MOVED** by Stanton to approve the County Engineer's Report recommending the road vacation of a portion of Highway 99, south of 134th Street. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 99)

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Kildun presented the staff report for the second request. She explained that an application for road vacation was received from Ron Wilson, et al., owner of three lots that abut highway 99 on the west side, beginning at the south line of McDonald's parcel, proceeding northerly. She further explained. *Kildun* stated that Mr. Wilson had been informed that the county will issue a 20-year restricted deed, which will prohibit construction of any structure, other than approved signage, from being placed on the vacated area. She said other conditions placed on the vacation include: no final order shall be recorded until the county's road project is complete; that all administrative expenses and land value is received; that an easement for existing utilities be reserved; and that no access points are guaranteed, except those approved through the site plan process.

Pridemore asked what the concern was for prohibiting the applicant to build a new structure on the vacated portion.

Kildun said they were actually going to entirely prohibit the structure because the value they are charging for the land doesn't reflect that a structure can be built. *Kildun* said they don't even know if a structure can be built in the future and explained that there are quite a few utilities that go through that section of Highway 99 and they are retaining easement. She said that James Howsley, the attorney representing Mr. Wilson, asked that the county make the restriction 20 years instead of for life. She further explained.

Pridemore asked if they were doing the restriction to increase the value.

Kildun said no. They were doing the restriction to keep the value at what was quoted to Mr. Howsley. She said they would have to charge more if they didn't have that restriction.

Discussion continued.

Pridemore noted that the price is \$222,870 and asked what the land would be worth if the restriction was lifted.

Kildun said it would be three times that amount.

Pete Capell, Director of Public Works, said the full value that Ms. *Kildun* was talking about is related to what unencumbered property would be worth, but because of the easements there are restrictions on what can be done and the original approach by Public Works was that there would be a permanent restriction. He said the adjoining property owner, who was interested in purchasing it, wanted to change it to a 20-year restriction in the event something would happen later, but those utilities would still need to be accommodated and that would involve a significant expense.

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Pridemore asked why prohibiting a structure was even initially considered.

Capell responded that it was a communication issue. He said it was presumed that because of the utility easement and the need to maintain that utility easement, it wasn't practical to build a structure there and that's what the value was based on. He said they weren't necessarily restricting it.

Pridemore said they should remove the restriction and if the land can't be developed, he would think that the price would still be the same. Why would it be three times more?

Capell agreed that he thought that was correct. With or without a formal restriction, the easement and utilities would place limitations on what could be done with the property.

Pridemore said his sense was that the public would benefit more by having the area redeveloped. He stressed that he wants to make sure the public gets a fair return. He suggested they take off the 20-year restriction and do the vacation with the \$222,000.

James Howsley, Attorney for the applicant, Miller Nash, 500 East Broadway, Suite 400, Vancouver, expressed appreciation to Ms. Kildun for her help during the process. He stated that they would be happy to have the 20-year restriction removed.

Morris asked Mr. Howsley what they would do.

Howsley responded that they can't develop on that portion of the property because of the utilities there. He said they do currently have an application pending with the Department of Community Development and they are proposing that area for parking, landscaping, and signage.

Morris asked how Columbia Credit Union would get access. Is it all under common ownership?

Howsley said yes.

Stanton wanted clarification from Kildun regarding additional expenses they needed to take into account other than the typical road vacation charges.

Kildun said they have the administrative and land costs.

There being no further public comment, **MOVED** by Pridemore to approve the Engineer's Report and the Preliminary Order to Vacate County Road Highway 99, North of 129th Street,

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with the exception of item 6, paragraph 6, of the Preliminary Order to Vacate, removing the 20-year restricted deed. Commissioners Morris, Stanton, and Pridemore voted aye. Motion carried. (See Tape 99)

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PUBLIC HEARING: ROAD VACATION ORDINANCE

Held a public hearing to consider adoption of an ordinance relating to road vacations, amending Clark County Code 12.28.020, 12.28.030, 12.28.060, and 12.28.070.

Barbara Kildun, Department of Public Works, presented. Ms. Kildun stated that staff was requesting that the Board approve proposed changes to Title 12.28 to bring county code into full compliance with state law, offer more definitive language for staff and applicant, and increase the application fee for the first time in 20 years. She further explained.

Morris asked what the basis was for increasing the fee ten-fold.

Kildun responded that the cost for road vacations has risen and the number of people who don't pay once they've had a hearing leaves the road fund with money that the public is spending versus what the private citizen should be spending.

Pridemore clarified that it isn't actually a fee – it's a deposit.

Kildun said that was correct. She added that they have only been collecting \$100 up front, but that \$1,000 up front is more reflective of what the Road Fund is spending. She reiterated that road vacations are supposed to be funded by the applicant, but what they are finding is that \$100 isn't enough to cover even a fraction of the costs if the department never receives those funds. She said that \$1,000 is closer to what the actual cost would be in the future, as well as more appropriate for protecting the public's interest. Kildun added that there would be the ability to refund. For example, if only \$500 of the \$1,000 is spent, they can automatically refund the applicant through the Treasurer's Office.

Stanton asked for clarification about whether the \$100 charge is an application fee and not refundable.

Rich Lowry, Prosecuting Attorney's Office, clarified that it's a deposit.

Pridemore asked if they have ever refunded.

Kildun responded that they have in certain cases. For example, if it becomes apparent that a project should actually fall under the Department of Public Works – generally large pieces of unconstructed properties in north county.

Morris wanted to know when a road vacation would become effective.

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Lowry said it would become effective through the Final Order.

Morris asked *Kildun* what the dollar amount is for non-payment of the \$100 fee.

Kildun said it's been difficult to track, but at last count it was \$40,000.

Morris said it was a legitimate case, but she felt uncomfortable increasing the fee to \$1,000. Her preference was to increase the fee in increments, such as \$500 to begin with.

Lowry referred to the section that's titled "application fee" and emphasized that the body of the section actually calls it a "cash deposit."

Morris asked if they could change the language in the title to reflect "cash deposit."

Lowry said they could make that change. He also noted a Scribner's error in Section 3, where the code should be "12.28.060" instead of "12.18.060."

Morris asked Commissioners Stanton and Pridemore for their thoughts regarding a fee of either \$500 or \$1,000.

Stanton asked if \$1,000 was reflective of the normal costs associated with processing a road vacation.

Kildun said it was and explained that the letter that is sent to applicants warns that the process will cost them at least \$1,000 or more, so that they have that information ahead of time.

Pridemore said he felt \$1,000 was reasonable and within the expectations of those people who would go through the process.

Stanton added that \$1,000 would discourage those individuals who are just trying to see if they can get it through, but then don't follow through, leaving the burden of the expense to fall back onto the public.

Kildun said that was staff's main concern, and the purpose of the law is so that the cost of the road vacation process won't be borne by the public.

Morris stated that \$1,000 is a big deposit and is a 100% increase in the fee. She said her preference would be to raise it to \$500.

Stanton asked what the most frequent cost is as far as administrative costs.

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Kildun responded that it's staff time and legal descriptions.

Stanton supported \$1,000 and felt it would help protect the public's interest.

There being no public comment, **MOVED** by Stanton to approve Ordinance 2004-05-17, noting the correction to Section 3 to change the code number to 12.28.060; and to also change the terminology in section 12.28.070 to read "Cash Deposit". Commissioners Stanton and Pridemore voted aye. Commissioner Morris voted nay. Motion carried. (See Tape 99)

The board adjourned and reconvened as the Board of Health.

PUBLIC COMMENT

There was no public comment.

CONSENT AGENDA

There being no public comment, **MOVED** by Pridemore to approve consent agenda item 1. Board Members Morris, Stanton, and Pridemore voted aye. Motion carried. (See tape 99)

Adjourned

2 p.m. Bid Openings

Present at the Bid Openings: Louise Richards, Clerk to the Board; Mike Westerman and Allyson Anderson, General Services

BID OPENING CRP 330822

Held a public hearing for Bid Opening CRP 330822 – NW 149th Street between NW 21st Avenue & NW 2nd Avenue. Mike Westerman, General Services, opened and read bids and stated that it was their intention to award Bid CRP 330822 on June 1, 2004, at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6th Floor. (See Tape 100)

BID OPENING 2370

Held a public hearing for Bid Opening 2370 – Annual Printing of Clark County Voters Pamphlet. Mike Westerman, General Services, opened and read bids and stated that it was

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their intention to award Bid 2370 on June 1, 2004, at 10:00 a.m., in the Commissioners' hearing room of the Clark County Public Service Center, 6th Floor. (See Tape 100)

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BOARD OF COUNTY COMMISSIONERS

Betty Sue Morris/s/
Betty Sue Morris, Chair

Judie Stanton, Commissioner

Craig A. Pridemore/s/
Craig A. Pridemore, Commissioner

ATTEST:

Louise Richards/s/
Clerk of the Board

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